IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4658 OF 2005.
IN
CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra ..Applicant
V/s
Jahangir Haidar Mahaldar & 3 Ors. ..Respondents.

Mr. Rajesh More, APP for the applicant.

Mr. Abhay D. Parab for respondent Nos. 1 to 3.

CORAM : J.H. BHATIA, J.

DATE : 29TH JANUARY, 2007.

P.C.

. Heard Mr. Rajesh More, learned APP for the applicant-State and Mr. Abhay Parab, learned Counsel for respondents.

2. This application is filed by the State seeking leave to prefer appeal against the order of acquittal for the offence punishable under section 498-A, 494,323 r/w section 34 of Indian Penal Code. Complainant PW 1 Ruksana was married to respondent No.1 on 27/4/1997. Respondent No..2 is mother and respondent No. 4 is brother of respondent No.1. Deceased respondent No. 3 was father of respondent No.1. It was alleged that at the time of marriage several articles were given by parents of Ruksana. For about 3 months she was treated well by husband and other in-laws. However, thereafter, they began to make demand of Rs. 50.000/- to purchase a tempo tracks. As her parents could not fulfil the demand, she was subjected to ill-treatment. She

informed her parents by telephone from time to time and finally she was compelled to leave the house in December, 1999. Thus she lived with her husband and in-laws for a period of about 7 months. According to her on 21/4/2001, she got information that respondent No. 1 had entered into second marriage. Therefore, she lodged a report at Shahuwadi Police Station on 24/2/2001. After investigation charge-sheet was filed by police. Respondents were put to trial. After hearing the evidence of the prosecution, the learned trial Court acquitted the respondents holding that evidence about the cruelty was not reliable. It was contended on behalf of the accused-respondent that complaint was also barred by limitation. However, in view of the provisions of section 473 Cr.P.C., in the interest of justice, learned trial Court found that the offence of cruelty against a woman should not be thrown away merely because barred by limitation. In spite of these observations on merits, the learned Magistrate acquitted the accused.

3. The learned trial Court noted that P.W.1 Ruksana had lived with the husband for a period of about 7 months and since December, 1997 she is residing with her

parents. She kept quite for almost three years and four months till 24/4/2001 when she lodged report with the police. The learned Trial Court also noted that even though according to the complainant she had from time to time informed her parents on telephone about the ill-treatment. Her parents admitted that he had not received any such complaint on telephone. Not only this, her father admitted that he had paid visits to the house of the respondents on 8 occasions during the said period but during that period also no grievance was made about the illtreatment. There was no independent evidence to corroborate version of P.W. 1 Ruksana. The learned Magistrate found that except bare words of PW 1 Ruksana there is no evidence to show that she was in fact subjected to the cruelty by husband or other in-laws. The fact that she kept quite for a period of three years and four months and she decided to lodge a report only after second marriage of her husband agitates against her plea of cruelty. Taking into consideration all these circumstances, I find that the learned trial Court was perfectly justified in passing the impugned order of acquittal. It is not a fit case, to grant leave to prefer appeal.

4. For the aforesaid reasons, the application stands rejected. Leave refused.

(J.H. BHATIA, J)